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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,246	04/30/2001	Yves Louis Gabriel Audebert	741.01101	8917
7590 10/27/2004			EXAMINER	
STEVENS, DAVIS, MILLER & MOSHER, LLP			LANIER, BENJAMIN E	
1615 L Street, N.W., Suite 850			ART UNIT	
Washington, DC 20036			PAPER NUMBER	
			2132	
DATE MAILED: 10/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,246

Applicant(s)

AUDEBERT ET AL.

Examiner

Benjamin E Lanier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) * | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/2003, 10/2001</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17, 19, 20-39, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis, U.S. Patent No. 6,105,008. Referring to claims 1, 2, 4-9, 11-14, 20-36, Davis discloses an internet loading system using a smart card wherein a client computer is coupled to a card reader comprising a smart card containing various secure information (Fig. 16, Col. 7, lines 41-52), which meets the limitation of a memory storage means for storing at least one unique identifier, and wherein the client computer communicates over the Internet, which meets the limitation of a packet based communication protocol, to a merchant web server and a payment authentication server (Fig. 16), which meets the limitation of at least one local client further comprising means for functionally connecting to a PSD interface and said network, wherein said client is functionally communicating over said network with said remote computer system, at least one remote computer system comprising means for functionally connecting to said network and wherein said remote computer system is functionally communicating with said client, server communication means for transmitting and receiving messages over said network using said packet communications protocol. The client computer performs the payment transaction through an applet (Col. 9, lines 5-17), which meets the limitation of an Application Protocol Data Unit (APDU). A payment server send an encrypted debit command to the client terminal that is

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decrypted by the client command and processes the debit command in a suitable fashion with the smart card (Col. 20, lines 45-49), which meets the limitations of client communication means for transmitting and receiving messages over said network using a packet based communications protocol, and for transmitting and receiving APDUs through said PSD interface, first client data processing means for receiving incoming messages using said client communications means and separating encapsulated APDUs from said incoming message packets and routing said APDUs through said PSD interface, PSD communications means for transmitting and receiving APDU messages through said PSD interface. Once the client terminal has received the debit response message from the smart card, it encrypts this message with the session key and sends the debit response message to the payment server (Col. 20, lines 50-56), which meets the limitation of a second client data processing means for encapsulating said APDUs received through said PSD interface into outgoing message packets and transmitting said outgoing message packets over said network using said client communications means, PSD processing means for interpreting said APDU messages, executing commands included in said APDU messages and transmitting responses in said APDU format through said PSD interface using said communication means.

Referring to claims 3, 10, 29, Davis discloses that the internet loading system can include a client terminal, a payment server and merchant server (Col. 6, lines 55-59), which can be provided together with the payment server (Col. 8, lines 63-67). The payment server utilizes a security card and a concentration point to perform payment functions (Col. 6, lines 61-63). The payment server communicates with the client terminal through a concentrator that handles any number of terminals (Col. 7, lines 8-11), which meets the limitations of first server data processing means for receiving requests from at least one application level program, translating

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said requests into APDU format and transmitting said APDU formatted requests to a second server data processing means, second server data processing means for encapsulating said APDUs receiving from said first server data processing means into outgoing messages packets and transmitting said outgoing message packets over said network using said server communications means. Payment server also communicates with concentration point for transmission of transaction data to a clearing and administration system (Col. 7, lines 12-15), which meets the limitation of third server data processing means for receiving incoming messages using said server communications means and separating encapsulated APDUs from said incoming message packets and routing said APDUs to a forth server data processing means. Merchant server is a site that has contracted with an acquirer to accept stored-value card transactions as payments for goods and/or services purchased over the Internet (Col. 7, lines 20-23), which meets the limitation of forth server data processing means for receiving and translating said APDUs sent by said third server data processing means into another message format and transmitting said translated message to at least one application level program. A payment server sends an encrypted debit command to the client terminal (Col. 20, lines 45-49), which meets the limitation of cryptography data processing means for encrypting outgoing APDUs received from said first data processing means and sending the encrypted APDUs to said second server data processing means and for decrypting incoming encrypted APDUs received from said third server data processing means and sending the decrypted APDUs to said forth server data processing means.

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Referring to claim 15-17, 19, 37-39, 41, Davis discloses that the network can be telephone, microwave, satellite, and/or cable network (Col. 7, lines 2-3), which meets the limitations of the network being hardwired, digital cellular, wireless, and telephone.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 18, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis, U.S. Patent No. 6,105,008, in view of Brown, U.S. Patent No. 5,455,863. Referring to claims 18, 40, Davis discloses that the network can be telephone, microwave, satellite, and/or cable network (Col. 7, lines 2-3), which meets the limitations of the network being hardwired, digital cellular, wireless, and telephone. Davis does not disclose that the network can be optical. Brown discloses a network authentication system wherein the network is wireline, optical fiber link, satellite, or any other type of communication channel (Col. 8, lines 56-58). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the network of Davis to be

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optical because Brown discloses that those skilled in the art would understand that different networks can be used without departing from the spirit and scope of the invention (Col. 8, lines 48-55).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E Lanier whose telephone number is 703-305-7684. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703)305-1830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin E. Lanier



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